IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION No. 21182 of 2004

Between:

G.Yerriswamy, S/o. G.Thimmappa,

Occu: Conductor, APSRTC, Gunthakal Depot,

Anantapur District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Rayadurga Depot, Anantapur

District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or orders, or direction more particularly one in the nature of writ of Mandamus declaring the proceedings No.02/95(80)/98-RDG, dated 27-7-98 of the respondent, as illegal, arbitrary, unjustified, unsustainable, in violation of principles of natural justice and violative of Articles 14 and 21 of the Constitution of India and set-aside the same and consequently direct the respondent to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner: MR.P.VARA PRASAD RAO

Counsel for the Respondent : MR.P.VINAYAKA SWAMY (Standing Counsel for APSRTC)

The Court at the stage of admission made the following :

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THE HONOURABLE DR. JUSTICE G.YETHIRAJULU

Writ Petition No. 21182 of 2004

ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. A charge memo was issued to the petitioner for having excess cash of Rs.120/- in bus cash while conducting the vehicle No.AP9-Z-707 on the route—Rayadurga-Bangalore on 30.05.1998. The petitioner submitted his explanation on 10.07.1998 denying the alleged charges. The grievance of the petitioner is that the respondent without considering the circumstances explained by him through his explanation and without conducting any enquiry, passed the impugned order, stopping one annual increment with cumulative effect. The petitioner, therefore, approached this Court, through this writ petition, to declare the proceedings No.02/95(80)/98-RDG, dated 27.07.1998 of the respondent as illegal, arbitrary, unjustified, unsustainable, in violation of principles of natural justice and violative of Articles 14 and 21 of the Constitution of India and set aside the same and consequently direct the respondent to add one annual increment to the pay of the petitioner.

2. The petitioner contends that the punishment imposed on him is a major penalty and it cannot be imposed without conducting any enquiry. Therefore, it amounts to violation of the rules as well as the principles of natural justice. The respondent did not place any material to show whether any enquiry was conducted subsequent to the explanation filed by the petitioner. In the absence of such material, it has to be held that the respondent failed to follow the procedure prescribed under the rules and regulations. Therefore, the impugned order dated 27.07.1998 of the respondent is not sustainable under law.

3. Having regard to the facts and circumstances of the case, I am inclined to modify the punishment of stoppage of one increment with cumulative effect imposed on the petitioner into one of stoppage of one increment without cumulative effect. Since the petitioner approached this Court six years after the order in question, he is not entitled for monetary benefit for the period from the date of the order of the respondent till the date of this order.

4. The writ petition is, accordingly, disposed of. No order as to costs.

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Dr.G.YETHIRAJULU, J

Dated: 19th November, 2004.

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ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Depot Manager, A.P.S.R.T.C., Rayadurga Depot, Ananthapur District.
2. Two C.D. copies.